IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 456 OF 2006
IN
APPEAL NO. 554 OF 2003

Elbee Services Ltd. ..Appellants

versus

Kotak Mahindra Bank Ltd. ..Respondents

Mr. M. V. Pandey for the Appellants.

Mr. B. Saraf i/b. M/s. Kartikeya & Associates for Respondents.

CORAM : DR. S. RADHAKRISHNAN &
S. J. VAZIFDAR, JJ.

DATE : 13TH APRIL, 2006

P.C. :

1. Heard learned counsel for the Appellants and the Respondents. This Notice of Motion is taken out by the Respondents. By this Notice of Motion, the respondents are pressing prayer (c) only, which reads as under:

(c) "that pending the hearing and final disposal of the above Appeal this Hon'ble Court be pleased to vary

and/or recall and/or stay the operation of the Order of 23rd July, 2003 as amended by the Order of 4th August, 2003 passed by their Lordships the Hon'ble Mr. Justice A. P. Shah and the Hon'ble Dr. (Mr.) Justice D. Y. Chandrachud on such terms and conditions as it deems fit and proper;"

2. We have perused the Order dated 23.7.2003 as well as the Order dated 4.8.2003 passed by this Court. Primafacie it is clear that the Appellants have been taking advantage of the said order, as is apparent from the subsequent order dated 23.4.2004 wherein the Appellants have admitted that the Appellants have collected a sum of Rs.63 lacs. However, the Appellants have not deposited any money in this Court, though the Appellants had undertaken to deposit 50% of the same.

3. Mr. Pandey counsel for the Appellants categorically states that the Appellants are not receiving any amount from any party and they are not likely to receive any money from any party. Under

the aforesaid facts and circumstances, the Notice of Motion is made absolute in terms of prayer (c) to the extent of recalling the Order dated 23.7.2003 as amended by order dated 14.8.2003. Notice of Motion is disposed of.

4. Appeal itself be placed on board for final hearing on 19.6.2006.

(DR. S. RADHAKRISHNAN, J.)

(S. J. VAZIFDAR, J.)